

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No. 07-05072-01-CR-SW-RED
)	
BRADLEY LEE VANSANDT,)	
)	
Defendant.)	

**REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

Defendant has filed a Motion to Dismiss pursuant to Federal Rules of Criminal Procedure 12 (b). In support of his motion, defendant contends that the United States must prove that the individual or individuals harbored were aliens. It is also asserted that by virtue of his discovery, defendant believes that the government witnesses were working for the United States Immigration and Customs Enforcement (ICE) and were not therefore aliens. Defendant relies on *United States v. Medina-Garcia*, 918 F.2d 4 (5th Cir. 1990).

In its response, the United States distinguishes the *Medina-Garcia* case, asserting that it intends to prove the defendant aided and abetted George's Processing, who was harboring over 136 aliens. It is therefore argued that the specific immigration status of the confidential sources is not critical. In addition, the government argues that it intends to call witnesses other than the confidential sources of which the defendant complains, and that a ruling on the merits of the Motion to Dismiss prior to trial is therefore premature.

On this latter point, the Court must agree. It is therefore

RECOMMENDED that defendant's Motion to Dismiss be denied without prejudice.

/s/ James C. England

**JAMES C. ENGLAND, CHIEF
UNITED STATES MAGISTRATE JUDGE**

Date: September 3, 2008